Hanor, Lively & Cernyar PLLC
Intellectual Property Law & Litigation

750 Rittiman Road
San Antonio, Texas 78209
www.hanor.com
jvasquez@hanor.com
Writer's Direct Line 210-829-2009
210-829-2001 Fax

April 9, 2009

Mail Stop Petition
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RE: Bonding of Soft Biological Tissues by Passing High Frequency Electric Current Therethrough
Application no. 10/673,358
Applicants: Boris E. Paton, et al.
Filed: 09/26/2003

Honorable Commissioner for Patents,

On June 1, 2008 the Patent Office issued a Notice of Non-Compliant Amendment to which the applicant failed to respond within the prescribed time limit. However, Applicant submits that this document was never received in the office of the attorney of record. In fact, Applicant was unaware that such a document existed until a phone call was received from the PTO notifying that the application was abandoned and the Notice of Abandonment was subsequently issued on February 24, 2009.

After learning of the abandonment of the application, an attempt was made to discern the reason no response was filed. The conclusion come to after searching our docketing system, electronic files and paper files, and finding no mention of the June 1, 2008 Notice, is that the it was never received. If it had been, the Applicant surely would have responded.

Because the failure to respond was completely unintentional, under 37 CFR 137 (a), Applicant respectfully requests that the above-mentioned application be reinstated. To further that end, Applicant has included,

1) This petition;
2) a Response to the June 1, 2008 Notice of Non-Compliant Amendment; and
3) a payment for $270 to cover the required fees.

Respectfully,



Charles W. Hanor
Reg. 27, 132

Appl. No.	:	10/673,358	Confirmation No. 3805
Applicants	:	Boris E. Paton, et al.	
Filed	:	09/26/2003	
Title	:	Bonding of Soft Biological Tissues by Passing High Frequency Electric Current Therethrough	
Assignee	:	Live Tissue Connect, Inc.	
TC/A.U.	:	3739	
Examiner	:	Lee S. Cohen	
Docket No.	:	8362.008	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO APRIL 22, 2008 OFFICE COMMUNICATON

Dear Sir/Madam:

In a response to Office Action dated March 20, 2008, Applicants inadvertently listed claims 75 – 78 as withdrawn when in fact they were cancelled on May 20, 2005 when an amendment was filed. In light of this, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims, which begin on page 2 of this paper.

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1-38 (cancelled).

Claim 39 (amended): Apparatus for bonding soft biological tissue having an incision therein, comprising:

forceps having first and second opposed arms mounted in a sleeve, the opposed arms being adapted to grip a portion of the tissue on both sides of the incision~~, the forceps having a pair of opposed arms mounted in sleeve at one end, and having another end configured for grasping between the opposed tips of said arms~~;

electrodes secured to tips of the opposed arms of said forceps, the electrodes being configured to grasp ~~for contacting~~ said tissue portion; and

an adjustable stop member mounted on an inside surface of the first opposed arm, the adjustable stop member being adapted to contact the second opposed arm, and when in contact to limit ~~that limits~~ the extent to which the forceps may be deformed;

a protuberance with a recessed surface for receiving a finger for clamping the forceps, the protuberance being located on an outside surface of one of the two opposed arms directly opposite the adjustable stop member;

the adjustable stop member preventing ~~and prevents~~ overexertion of pressure on grasped tissue by limiting the maximum force transferred to the tissue, despite increased pressure exerted on the forceps by a user, the stop member being adjustable to accommodate the bonding of tissues of varying thicknesses to provide tissue welding that forms a weld to reconnect the tissue.

Claim 40 (amended): A method for bonding soft biological tissue comprising:

selecting an ~~The~~ apparatus as claimed in ~~of~~ claim 39 having~~, wherein said~~ electrodes that are dimensioned to have a volume which is at least 5 times that of the tissue portion volume;

applying the apparatus to soft biological tissue having an incision therein; and

applying power to the apparatus to bond the soft biological tissue.

Claim 41 (amended): The apparatus of claim 39 ~~40~~, wherein said electrodes are made of a metal with a high heat conductivity.

Claims 42-65 (canceled).

Claim 66 (currently amended): The apparatus of claim 39, wherein the adjustable stop member comprises a replaceable lug of selectable length positioned between the two arms of the forceps.

Claim 67 (amended): The apparatus of claim 39, wherein the adjustable stop member comprises a lug and one or more spacers positionable between the lug and the inside surface of the first opposed arm to accommodate the bonding of tissues of varying thicknesses.

Claim 68 (original): The apparatus of claim 39, wherein the adjustable stop member comprises an adjustable knob.

Claims 69 – 70 (canceled).

Claim 71 (amended): Apparatus for bonding soft biological tissue having an incision therein, comprising:

forceps having first and second opposed arms mounted in a sleeve, the opposed arms being adapted to grip a portion of the tissue on both sides of the incision~~, the forceps having a pair of opposed arms mounted in sleeve at one end, and having another end configured for grasping between the opposed tips of said arms~~;

electrodes secured to tips of the opposed arms of said forceps, the electrodes being configured to grasp ~~for contacting~~ said tissue portion and provide tissue welding that forms a weld to reconnect the tissue; and

a lug that is removably mounted to an inside surface of the first opposed arm, the lug being adapted to contact the second opposed arm, and when in contact to limit ~~stop means for selectively limiting~~ the extent to which the forceps may be deformed ~~to provide tissue welding that forms a weld to reconnect the tissue~~, the lug ~~stop means~~ further preventing the overexertion of pressure on grasped tissue by limiting the maximum force transferred to the tissue, despite increased pressure exerted on the forceps by a user.

Claim 72 (cancelled).

Claim 73 (amended): The apparatus of claim 71, further comprising ~~wherein the stop means comprises~~ one or more spacers positionable between the lug and the inside surface of the first opposed arm to accommodate the bonding of tissues of varying thicknesses.

Claim 74 (amended): The apparatus of claim 71, further comprising ~~wherein the stop means comprises~~ an adjustable knob mounted on the outside surface of the first opposed arm opposite the lug.

Claims 75 (cancelled): The apparatus of claim 71, wherin the stop means comprises an electromagnetic drive.

Claim 76 (cancelled): The apparatus of claim 75, wherein the electromagnetic drive is controlled by a computer.

Claim 77 (cancelled): Apparatus for bonding soft biological tissue having an incision therein, comprising:

Forceps adapted to grip a portion of the tissue on both sides of the incision; electrodes secured to said forceps for contacting said tissue portion; and a stop member that has two selectable levels for limiting the extent to which the forceps may be deformed.

Claim 78 (cancelled): The apparatus of claim 77, wherein the forceps have two arms, and wherein the stop member comprises a lug, a pin, and spacers placed between the two arms of the forceps, the stop member further comprising an electromagnetic drive that adjusts the position of the pin.

Claim 79 (previously presented): The apparatus of claim 74, wherein the adjustable knob has a recessed surface for receiving a finger for clamping the forceps, the protuberance being located on an outside surface of one of the two opposed arms directly opposite the adjustable stop member.

Conclusion

In view of the foregoing amendments, Applicants respectfully ask that the finding of non-compliance and rejections be withdrawn. Believing that all things raised in the Examiner's April 22, 2008, Office Action have been addressed, the undersigned respectfully requests that the application be allowed and passed to issue.

Respectfully submitted,



Eric W. Cernyar
Reg. No. 45,919
Hanor, Lively & Cernyar
750 Rittiman Road
San Antonio, TX 78209
Phone: (719) 689-0700
Cell: (719) 216-6793
Fax: (719) 325-8318